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Promotion and protection of human rights

Measures to eliminate international terrorism

Letter dated 17 August 2006 from the Permanent Representative of Cuba to the United Nations addressed to the Secretary-General

I have the honour to attach the declaration of the Committee on Constitutional and Legal Affairs of the National Assembly of People's Power of the Republic of Cuba expressing outrage at the ruling of the Court of Appeals in Atlanta, Georgia (United States) vacating — in contravention of legal principles — the unanimous verdict of the panel of three judges which had rescinded the judgement handed down in Miami against five Cuban anti-terrorist heroes: Gerardo Hernández, Ramón Labañino, Fernando González, René González and Antonio Guerrero.

I should be grateful if you would have this letter and its annex distributed as a document of the General Assembly under items 66 and 97 of the provisional agenda of its sixty-first regular session.

(*Signed*) Rodrigo **Malmierca Díaz**
Ambassador
Permanent Representative

* A/61/150.

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Annex to the letter dated 17 August 2006 addressed to the Secretary-General by the Permanent Representative of Cuba to the United Nations

Declaration of the Committee on Constitutional and Legal Affairs of the National Assembly of People's Power of the Republic of Cuba

15 August 2006

The Committee on Constitutional and Legal Affairs of the National Assembly of People's Power of the Republic of Cuba expresses its outrage at the ruling of the Court of Appeals in Atlanta, Georgia, vacating — in contravention of legal principles — the unanimous verdict of the panel of three judges which had rescinded the judgement handed down in Miami against five Cuban anti-terror heroes: Gerardo Hernández, Ramón Labañino, Fernando González, René González and Antonio Guerrero.

That ruling once again highlights the political nature of the judgement and of the unjust action taken, the arbitrariness of the United States Government and the violations of the United States' own laws and Constitution and of the most fundamental legal tenets, and more specifically of human rights, which have occurred.

The 93-page ruling of the panel judges, whose combined professional experience totals over 80 years, indicated: "empaneling (an impartial) jury in this community (Miami) was an unreasonable probability because of pervasive community prejudice". "A new trial was mandated by the perfect storm created when the surge of pervasive community sentiment, and extensive publicity both before and during the trial, merged with the improper prosecutorial references."

The Atlanta court's decision takes no account of the environment of violence and intimidation in Miami, nor of recent events documented in the local press. They include the seizure of arsenals of weapons intended for terrorist action against Cuba and public statements by terrorists who acknowledge their acts with complete impunity. This confirms the need for the work which the five carried out, monitoring Miami groups to find out about the planning of acts of violence against Cuba which have led to the deaths of innocent civilians, and provides new and compelling proof in support of their defence, particularly the universal defence principle of necessity.

Also completely ignored were the opinion of the Working Group on Arbitrary Detention of the United Nations Commission on Human Rights that it arose from the facts and circumstances in which the trial took place and from the nature of the charges and the harsh sentences handed down to the accused that the trial did not take place in the climate of objectivity and impartiality that is required in order to conform to the standards of a fair trial as defined in article 14 of the International Covenant on Civil and Political Rights; the Working Group's declaration that the detention of the five was arbitrary; and its request to the United States Government to take immediate action to resolve the hardship imposed on them.

We condemn this odious and shameful decision and call on the world's parliamentarians and on all those who love justice to join this noble and just cause and demand that the United States Government should immediately free the five

Cuban heroes who have fought against terrorism and for the lives and peace of the peoples of Cuba and the United States of America. Next September, the five will mark eight years of unfair imprisonment, with severe restrictions on family visits, with two being unable even to see their wives.

The international campaign to free the five, scheduled for 12 September to 6 October 2006, should help to continue and step up our brothers' fight for truth and justice and to develop a broad front within parliaments and the legal community to ensure that universal legal principles prevail, so that these patriots can return to Cuba.